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No. 83-2128.

In the

Supreme Court of the United States.

OCTOBER TERM, 1983.

RAYTHEON COMPANY,
PETITIONER,

v.

ROPER CORPORATION,
RESPONDENT.

Second Supplemental Brief under Supreme Court Rule 22.6 in Support of Petition for Writ of Certiorari.

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SECOND SUPPLEMENTAL BRIEF UNDER SUPREME COURT RULE 22.6 IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

Petitioner, Raytheon Company, in supplementation of its Petition for a Writ of Certiorari, hereby directs the attention of the Court to the following additional Petitions for Writs of Certiorari which are before this Court and which present issues the same as or closely related to the issues raised by Raytheon's Petition herein:

(1) Envirotech Corp. and Energy Fuels Nuclear, Inc. v. Amstar Corp., No. 84-294, filed August 24, 1984;

(2) Rohm & Haas Co. v. Crystal Chem. Co., No. 84-1, filed July 5, 1984;

(3) W.L. Gore & Assocs. v. Garlock, Inc., No. 84-2, filed July 2, 1984, and

(4) T.P. Labs., Inc. v. Professional Positioners, Inc., No. 83-1939, filed April 21, 1984.

In these cases, the Court of Appeals for the Federal Circuit has followed the same path it traveled in the cases cited in our previous Supplemental Brief: it has engaged in impermissible fact-finding in abuse of Rule 52(a), F.R. Civ. P. The companion cases show that the court's disregard of Rule 52(a) in the instant case is not a mere aberration but rather a course of conduct which, unless curtailed by this Court, will continue to impose a standard of review in patent cases sharply different from that specified by Rule 52(a) and by prior decisions of this Court.

Because of the Federal Circuit's predilection to usurp the fact-finding functions of the District Courts and

because of the other issues of major impact on the patent system raised in Raytheon's Petition for Certiorari, this case is particularly appropriate for review by the Supreme Court. In any event, should this Court grant any of the other pending Petitions for Certiorari cited by Raytheon, Petitioners request that the present case be consolidated with the other cases or held pending this Court's decision in the other cases.

Respectfully submitted,

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